

### § 3.10

### 22 CFR Ch. I (4–1–04 Edition)

and the circumstances surrounding its donation and assess whether any adverse effect upon the foreign relations of the United States might result from a return of the gift (or decoration) to the donor, which shall be the preferred means of disposal. If this is not deemed feasible, the employing agency is required by GSA regulations to report deposit of the gift or decoration within 30 calendar days, using Standard Form 120, Report of Excess Personal Property and, as necessary, Standard Form 120A, Continuation Sheet, and citing section 7342 of title 5, U.S. Code (1976), on the reporting document. Such reports shall be submitted to the General Services Administration, Washington National Capital Region (WDPO), Attention: Federal Property Resources Service, Seventh and D Streets, SW., Washington, DC 20407.

(b) No gift or decoration deposited with the General Services Administration for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. When depositing gifts or decorations with the designated depository office of their employing agency, employees may indicate their interest in participating in any subsequent sale of the items by the Government. Before gifts and decorations may be considered for sale by the General Services Administration, however, they must first have been offered for transfer to Federal agencies and for donation to the States. Consequently, employees should understand that there is no assurance that an item will be offered for sale, or, if so offered, that it will be feasible for an employee to participate in the sale. Employees are reminded in this connection that the primary aim of the Act is to discourage employees' acceptance of gifts of more than minimal value.

#### § 3.10 Enforcement.

(a) Each employing agency is responsible under the Act for reporting to the Attorney General cases in which there is reason to believe that one of its employees has violated the Act. The Attorney General in turn may file a civil action in any United States District Court against any Federal employee

who has knowingly solicited or accepted a gift from a foreign government in violation of the Act, or who has failed to deposit or report such gift, as an Act required by the Act. In such case, the court may assess a maximum penalty of the retail value of a gift improperly solicited or received, plus \$5,000.

(b) Supervisory officials at all levels within employing agencies shall be responsible for providing periodic reorientation of all employees under their supervision on the basic features of the Act and these regulations, and for ensuring that those employees observe the requirements for timely reporting and deposit of any gifts of more than minimal value they may have accepted.

(c) Employees are advised of the following actions which may result from failure to comply with the requirements of the Act and these regulations:

(1) Any supervisor who has substantial reason to believe that an employee under his or her supervision has violated the reporting or other compliance provisions of the Act shall report the facts and circumstances in writing to the senior official in charge of administration within the cognizant bureau or office or at the post abroad. If that official upon investigation decides that an employee who is the donee of a gift or is the recipient of travel or travel expenses has, through actions within the employee's control, failed to comply with the procedures established by the Act and these regulations, the case shall be referred to the Attorney General for appropriate action.

(2) In cases of confirmed evidence of a violation, whether or not such violation results in the taking of action by the Attorney General, the senior administrative official referred to in paragraph (c)(1) of this section as responsible for forwarding a violation report to the Attorney General shall institute appropriate disciplinary action against an employee who has failed to (i) Deposit tangible gifts within 60 days after acceptance, (ii) account properly for the acceptance of travel expenses or (iii) comply with the Act's requirements respecting disposal of gifts and decorations retained for official use.

(3) In cases where there is confirmed evidence of a violation, but no evidence

## Department of State

## § 3a.1

that the violation was willful on the part of the employee, the senior administrative official referred to in paragraph (c)(1) of this section shall institute appropriate disciplinary action of a lesser degree than that called for in paragraph (c)(2) of this section in order to deter future violations by the same or another employee.

### § 3.11 Responsibility of chief of mission to inform host government of restrictions on employees' receipt of gifts and decorations.

A special provision of the Act requires the President to direct every chief of a United States diplomatic mission to inform the host government that it is a general policy of the United States Government to prohibit its employees from receiving gifts of more than minimal value or decorations that have not been tendered "in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance." Accordingly, all Chiefs of Mission shall in January of each year conduct a thorough and explicit program of orientation aimed at appropriate officials of the host government concerning the operation of the Act.

### § 3.12 Exemption of grants and other foreign government assistance in cultural exchange programs from coverage of foreign gifts and decorations legislation.

The Act specifically excludes from its application grants and other forms of assistance "to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies". See 22 U.S.C. 2558 (a) and (b) for the terms and conditions under which Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such employee in a cultural exchange.

## PART 3a—ACCEPTANCE OF EMPLOYMENT FROM FOREIGN GOVERNMENTS BY MEMBERS OF THE UNIFORMED SERVICES

Sec.

3a.1 Definitions.

3a.2 Requirement for approval of foreign government employment.

3a.3 Authority to approve or disapprove proposed foreign government employment.

3a.4 Procedure for requesting approval.

3a.5 Basis for approval or disapproval.

3a.6 Notification of approval.

3a.7 Notification of disapproval and reconsideration.

3a.8 Change in status.

AUTHORITY: Sec. 509, 91 Stat. 859 (37 U.S.C. 801 Note); sec. 4, as amended, 63 Stat. 111 (22 U.S.C. 2658).

SOURCE: 43 FR 55393, Nov. 28, 1978, unless otherwise noted.

### § 3a.1 Definitions.

For purposes of this part—

(a) *Applicant* means any person who requests approval under this part to accept any civil employment (and compensation therefor) from a foreign government and who is: (1) Any retired member of the uniformed services;

(2) Any member of a Reserve component of the Armed Forces; or

(3) Any member of the commissioned Reserve Corps of the Public Health Service.

The term "applicant" also includes persons described in paragraph (a)(1), (2), or (3) of this section, who have already accepted foreign government employment and are requesting approval under this part to continue such employment.

(b) *Uniformed services* means the Armed Forces, the commissioned Regular and Reserve Corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(c) *Armed Forces* means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(d) *Secretary concerned* means: (1) The Secretary of the Army, with respect to retired members of the Army and members of the Army Reserve;

(2) The Secretary of the Navy, with respect to retired members of the Navy and the Marine Corps, members of the Navy and Marine Corps Reserves, and retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is operating as a service in the Navy;

(3) The Secretary of the Air Force, with respect to retired members of the